

The Sun

**Vehicle shouldn't have been seized, appellate court rules  
Forfeiture of \$20,000 car in drug crime improper**

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January 12, 1998 Page(s): 4B  
Edition: HOWARD  
Section: NEWS  
Length: 527 words  
Record Number: BSUN01121133

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A Howard County judge was correct in finding a car "not guilty" in a drug case and thwarting government efforts to take it from its owner, the state Court of Special Appeals ruled Friday.

The local government probably "coveted the car" because it was a \$20,000 purple Corvette that was fully paid for, making it valuable, a three-judge panel said in upholding a 1997 decision by Howard County Circuit Judge Diane O. Leasure. So eager was the county to acquire the car that it filed the forfeiture paperwork before it had received test results of the suspected drugs seized from the owner, the court noted.

"The message to the county attorneys who handle these cases is they need to keep these matters in perspective," said Gary S. Bernstein, lawyer for the Ellicott City man who owned the car.

State law allows local governments to seek possession of vehicles linked to illegal drugs.

That is what the Howard County Solicitor's Office did after police arrested Douglas B. Tennant, now 45, of the 10000 block of Fox Den Road, on Jan. 24, 1996, and charged him with possession of drug paraphernalia and illegal drugs. Tests showed he had 2.2 grams of heroin and 05 grams of cocaine. Tennant was given probation before judgment in Howard County District Court and placed on three years probation.

But neither Leasure nor the appellate judges agreed with Howard County's contention that the drugs and the car were closely linked, and both said the punishment of taking Tennant's car was out of line with the crime.

"In the grand scheme of things, Tennant's crime was not grave; the value of Tennant's car was great, and it is likely that the county coveted the car for that reason," the appellate judges wrote.

Other defense lawyers agreed that the more valuable the car involved in a drug case -- even a relatively minor one -- the more likely a local government is to move to acquire it.

"That is what is so heinous about the forfeiture process," said Richard A. Finci, a Hyattsville lawyer involved in 1995 efforts that led to amendment of the forfeiture law to give more protection to vehicle owners.

Howard authorities "thought they had the pick of the litter," Bernstein said. "If this had been an '87 Caprice with body damage the car never would have left the driveway."

Not so, countered F. Todd Taylor Jr., senior assistant Howard County solicitor, who said he will recommend that the county ask the state's top court, the Court of Appeals, to reverse the ruling. Howard officials had appealed the Circuit Court decision.

Howard County seeks forfeiture of cars that are financially worth its while, but there is little point in it acquiring a vehicle that will end up costing the county money, Taylor said. And forfeiture can be as punitive as a jail sentence, he said.

"If they lose their car, they lose their asset -- this bothers them," Taylor said